

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUKE ALDON HAYES,

Defendant.

CR 15–35–M–DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 21, 2015. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Luke Aldon Hayes’s guilty plea after Hayes appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of being a felon in

possession of firearms in violation of 18 U.S.C. § 922(g)(1) (Count IV of the Indictment), and one count of possession of firearms that were not registered to him in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. § 5861(d) (Count V of the Indictment). Defendant further agrees to the Third Forfeiture Allegation of the Indictment, and agrees to forfeit the firearms, firearm components and accessories, and ammunition identified in the Plea Agreement. In exchange for Defendant's pleas and his agreement to the forfeiture allegations, the United States has agreed to dismiss Counts I, II, III, and VI of the Indictment, and the First and Second Forfeiture Allegations in the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 21), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Luke Aldon Hayes's motion to change plea (Doc. 14) is GRANTED and Luke Aldon Hayes is adjudged guilty as charged in Counts IV and V of the Indictment.

DATED this 5th day of January, 2016.



Dana L. Christensen, Chief District Judge
United States District Court